

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

SEAN DIVERS, Special Administrator of the  
ESTATE OF PENNI DIVERS; and SEAN  
DIVERS, Individually,

Plaintiffs,

vs.

ALBERT HALLS, M.D.; PEOPLES'  
HEALTH CENTER; LISA YOUNG,  
A.P.R.N., R.N., M.S.N.; PLAZA WEST  
PSYCHIATRISTS L.L.C.; COMMUNITY  
MENTAL HEALTH CENTER OF  
LANCASTER COUNTY; WAGEYDRUG  
CO.; WAL-MART STORES, INC.; and JOHN  
DOES NOS. 1-5.,

Defendants.

4:12CV3226

NOTICE OF REMOVAL

Pursuant to 42 U.S.C. § 233(c), Defendants, Albert Halls, M.D. and Peoples' Health Center remove to this Court the State Court civil action indicated in the attachments to this Notice.

Defendant represents that:

Defendants Albert Halls, M.D. and Peoples' Health Center are defendants in the above captioned civil action which is pending in the District Court of Lancaster County, Nebraska, as case number CI 12 0001239. No trial has been had in that action. Copies of all process, pleadings and orders served upon Defendant in that action are attached to this notice as Exhibit A.

At all times relevant, Defendants were deemed employees of the United States of America under the authority of the Federally Supported Health Centers Assistance Act, 42, U.S.C. § 233.

Plaintiffs in the state court action seek personal injury, wrongful death, loss of consortium, and other damages from Defendants Albert Hall, M.D. and Peoples Health Center and the other named defendants for acts of alleged medical negligence upon Plaintiff's decedent.

Plaintiffs' claim for relief allegedly arises under Nebraska medical negligence law. However, Congress has provided that the exclusive remedy for such an alleged "wrongful" act of an employee of the United States Government, acting within the scope of his employment, shall be an action against the United States under the Federal Tort Claims Act, See Federally Supported Health Centers Assistance Act, 42, U.S.C. § 233(a) *et seq.* Attached hereto as Exhibit B is the certification of the United States Attorney that Defendants Albert Halls, M.D. and Peoples' Health Center were acting within the scope of his employment at time of the incident out of which the claim arose. Title 42 U.S.C. § 233(c) provides that this action shall be removed to United States District Court upon such certification.

Defendant prays that the above-captioned action, pending in the District Court of Lancaster County, Nebraska, be removed to this Court.

Dated this 8<sup>th</sup> day of November, 2012.

Respectfully Submitted,

ALBERT HALL, M.D. AND PEOPLES'  
HEALTH CENTER,  
DEFENDANTS

DEBORAH R. GILG  
United States Attorney  
District of Nebraska

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REQUEST FOR TRIAL

The United States of America requests that trial of this case be held at Lincoln, Nebraska, and that the case be calendared accordingly.

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: N/A, and also hereby certify that a copy of the same has been served by regular mail, postage prepaid, to the following non-CM/ECF participants:

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s/ Paul D. Boeshart  
Paul D. Boeshart  
Assistant U.S. Attorney